IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8441 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANGABHAI JIRIYABHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8441 of 1999

MR UTPAL M PANCHAL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-2

MR JOY MATHEW for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/04/2004

ORAL JUDGEMENT

The petitioner has applied for licence for

running Fair-price Shop in village Vandari, Tal. Dediapada, Dist. Narmada on 24th August 1998. The respondent authorities, after considering the applications, granted licence of Fair-price shop to respondent No.3. Against the said decision, the petitioner preferred Appeal No. 27 of 1999 before the State Government. The State Government, after considering the case of the petitioner, has dismissed the appeal and confirmed the order of the District Supply Officer, dated 18th March 1999 in favour of the petitioner.

2. While admitting this matter, this Court has not granted any interim relief and the respondent No.3 is running the Fair-price Shop since 1999.

3. It is contended on behalf of the petitioner that the petitioner is qualified and as per the guidelines and considering the application tendered by the petitioner, the District Supply Officer ought to have granted licence to the petitioner.

4. The District Supply Officer has accepted the case of the respondent No.3 in view of the fact that both of them were local candidates and belonging to ST community and priority is not to be given to educationally unemployed persons. As the District Supply Advisory Committee has selected respondent No.3, the State Government has accepted the opinion of the Expert Committee and has not shown any inclination to interfere with the decision of the Committee. Apart from that, the respondent No.3 has also produced certificate of experience and the shop can be hired or purchased after granting of licence and therefore, the argument of the petitioner was not accepted by the revisional authority.

5. It was argued before the revisional authority that after granting of the licence to respondent No.3, respondent No.3 was running the Fair-price Shop through other persons and therefore, the authority ought to have considered the same. I am of the opinion that the Expert Committee has considered the case of both the candidates and came to the conclusion that the licence may be granted to respondent No.3 who is otherwise eligible and confirmed the same as in the order of the appellate authority rejecting the contention of the petitioner.

6. Learned Advocate Mr.Panchal for the petitioner is not in a position to establish that the findings of both the authorities are in any way perverse or are not

acceptable to a prudent man. Therefore, considering the evidence on record, prima facie, the decision of both the authorities is just and proper and no interference is called for. Therefore, the petition deserves to be dismissed and the same is dismissed. Rule is discharged, with no order as to costs.

(K.S. Jhaveri, J.)

Sreeram.